

JAN 03 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

PALWINDER SINGH CHAHAL,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-74449

Agency No. A97-596-043

MEMORANDUM^{*}On Petition for Review of an Order of the
Board of Immigration AppealsSubmitted December 3, 2007^{**}

Before: GOODWIN, WALLACE and FISHER, Circuit Judges.

Palwinder Singh Chahal, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") decision dismissing his appeal from an Immigration Judge's ("IJ") denial of his application for asylum and withholding of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal, and request for relief under the Convention Against Torture (“CAT”).

We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence an adverse credibility finding and will uphold the IJ’s and BIA’s decisions unless the evidence compels a contrary conclusion. *Malhi v. INS*, 336 F.3d 989, 992 (9th Cir. 2003). We dismiss the petition in part, and deny the petition in part.

We dismiss Chahal’s asylum claim, because he failed to exhaust it before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004).

Substantial evidence supports the IJ’s and BIA’s denial of withholding of removal based on an adverse credibility finding. First, the IJ specifically and cogently referred to the non-credible aspects of Chahal’s demeanor as required for a demeanor-based adverse credibility finding. *See Arulampalam v. Ashcroft*, 353 F.3d 679, 686 (9th Cir. 2003). Second, Chahal’s testimony was internally inconsistent and inconsistent with his asylum application. *See Li v. Ashcroft*, 378 F.3d 959, 962-64 (9th Cir. 2004). Finally, after identifying specific inconsistencies in Chahal’s testimony, the IJ did an individualized analysis of his situation in light of generalized country conditions, and therefore properly relied on the State Department Report to support the adverse credibility determination. *See Chebchoub v. INS*, 257 F.3d 1038, 1043-44 (9th Cir. 2001).

Chahal's CAT claim also fails because it is based on the same testimony that the IJ and BIA found not credible, and he points to no other evidence that he could claim the IJ and BIA should have considered. *See Farah v. Ashcroft*, 348 F.3d 1153, 1157 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.